

JUDGE COTE

154

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X Case No.

LYNETTE ACOSTA,

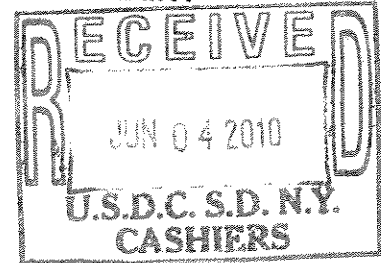
Plaintiff,

-against-

MEDICREDIT, INC.,

Defendant.
-----X

COMPLAINT



Plaintiff, by and through her attorneys, FAGENSON & PUGLISI, upon knowledge as to herself and her own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant and in support thereof alleges the following:

INTRODUCTION

1. This is an action for damages brought by an individual consumer for defendant's violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692, *et seq* which prohibits debt collectors from engaging in abusive, deceptive and unfair acts and practices.

PARTIES

2. Plaintiff is a natural person residing in this District and is a consumer as defined by the FDCPA, § 1692a(3).

3. Upon information and belief, defendant is a debt collector, as defined pursuant to 15 U.S.C. § 1692a(6). Upon information and belief, defendant is a foreign business corporation incorporated in Missouri.

JURISDICTION AND VENUE

4. This Court has jurisdiction and venue pursuant to 15 U.S.C. §1692k(d) (FDCPA) and 28 U.S.C. §1331.

AS AND FOR A FIRST CAUSE OF ACTION

5. Plaintiff re-alleges paragraphs 1 to 4 as if fully re-stated herein.

6. That on or about November 3, 2008, Lenox Hill Hospital, through its attorneys Smith Carroad Levy & Finkel, LLP (Smith Carroad), sent to plaintiff a letter in an attempt to collect a medical debt owed to Lenox Hill Hospital. Plaintiff received said letter.

7. That after receipt of the said letter plaintiff conferred with her attorney, Concetta Puglisi, Esq., at Fagenson & Puglisi.

8. That by letter dated December 10, 2008, Ms. Puglisi wrote to Smith Carroad stating that she represents plaintiff and disputing the debt Smith Carroad was attempting to collect. Ms. Puglisi explained in her letter that plaintiff was covered by Medicaid health insurance for the hospital visit and even enclosed a HIPAA form authorizing the release of plaintiff's health information in an effort to resolve the matter.

9. That in her letter dated December 10, 2008 Ms. Puglisi requested that plaintiff not be directly contacted regarding the debt.

10. That, thereafter, several letters were exchanged between Smith Carroad and plaintiff's attorneys, Fagenson & Puglisi in an attempt to resolve the disputed debt.

11. That on or about September 28, 2009, Lenox Hill Hospital, through its attorneys Smith Carroad commenced an action concerning the said debt against plaintiff in the New York County Civil Court.

12. That on or about February 16, 2010 plaintiff, by her attorneys, Fagenson & Puglisi, served on Smith Carroad a Notice of Appearance, Answer and Interrogatories.

13. That the parties, through their attorneys, were involved in discovery exchanges in the course of the litigation when defendant sent a letter to plaintiff in an attempt to collect the said debt allegedly owed to Lenox Hill Hospital. A copy of said letter is attached as Exhibit "1".

14. That said letter is dated March 9, 2010.

15. That defendant sent said letter directly to plaintiff at her home.

16. That defendant knew that plaintiff was represented by an attorney in the matter of the debt.

17. That defendant's said letter to plaintiff constitutes improper direct contact with plaintiff with full knowledge that she is represented by counsel in the matter and is in violation of the FDCPA, including but not limited to §1692c(a)(2). Said letter also violates §1692e(10), as a false representation or deceptive means to collect or attempt to collect a debt or to obtain information concerning a consumer.

WHEREFORE, plaintiff respectfully prays that judgment be entered against the defendant as follows:

- (a) statutory damages pursuant to 15 U.S.C. §1692k in an amount to be determined at the time of trial;
- (c) reasonable attorney's fees, costs and disbursements pursuant to 15 U.S.C. §1692k; and
- (d) for such other and further relief as may be just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff requests trial by jury on all issues so triable.

Dated: New York, New York
June 3, 2010.

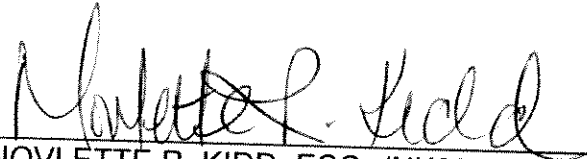

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FAGENSON & PUGLISI
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EXHIBIT "1"



MEDICREDIT, INC.
P.O. Box 411187
St. Louis, MO 63141-3187
Phone: 314-837-3201 ext. 381
800-888-2238 ext. 381

You can also pay by check or
credit card at our website:
www.medicreditcorp.com

Re: LENOX HILL HOSPITAL

Account #: [REDACTED]

Customer #: [REDACTED]

Date of Service: [REDACTED]

Balance Due on File: [REDACTED]

This is to inform you that Lenox Hill Hospital has placed your account with this agency with the full intention of collecting this account. Please give this past due account the attention it deserves.

Please either:

1. Remit payment in full to this office or,
2. Contact this office in person or by telephone to arrange resolution of the account.
3. For phone payments, express mail, MoneyGram or Western Union information, call between 8:00am and 8:00pm Monday to Thursday, 8:00am to 5:00pm Friday, and 8:00am to Noon Saturday. All times are Central Time Zone.



Please call to make a payment by
check or credit card by telephone



Important Notice:

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

Medicredit, Inc.

P.O. Box 411187

St. Louis, MO 63141-3187

This communication is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for this purpose.

>>> Please see reverse side if applicable for credit card payment or medical insurance information <<<

Detach Lower Portion and Return with Payment

6QUWEST1002 REV 06-19-08



QUWEST10
PO Box 1022
Wixom MI 48393-1022

Account #: [REDACTED]

Amount due on file: \$ [REDACTED]

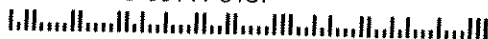
Mail all Correspondence to:

March 9, 2010

MEDICREDIT, INC.

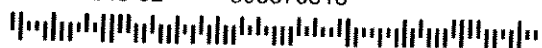
P O Box 411187

St Louis MO 63141-3187



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Lynette Acosta

[REDACTED]
New York NY 10029-3126